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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

11 | United States of America

CR-23-0583-TUC-SHR

Plaintiff,

13 || vs.

GOVERNMENT'S SENTENCING MEMORANDUM

Clinton Mark Lewis,

Defendant.

17 The United States of America, by and through its undersigned attorneys, hereby
18 respectfully submits its sentencing memorandum in the above-captioned matter. The
19 sentencing hearing is scheduled on August 5, 2024, before the Honorable District Court
20 Judge Scott H. Rash.

The United States is in receipt of the presentence report (PSR) and concurs with the guideline calculations and sentencing recommendation contained therein. The U.S. Probation Officer (USPO) determined the defendant's total offense level of 12 and placement in Criminal History Category IV yields a sentencing guideline range of 21 to 27 months of imprisonment. Pursuant to the plea agreement and Rule 11(c)(1)(C), the parties stipulated that the defendant will be sentenced to 51 months of imprisonment in exchange for the dismissal of the remaining counts in the indictment. The USPO recommends the Court to accept the plea agreement and sentence the defendant to 51 months of

1 imprisonment consecutive to any undischarged term of imprisonment in CR-20-0044-
2 PHX. The United States concurs with the USPO's sentencing recommendation in its
3 entirety and requests the Court to impose a sentence accordingly. As a basis for its request,
4 the United States provides the following facts and argument.

5 FACTS

6 On July 25, 2022, Mr. Lewis appeared before a district court judge, Person A, for
7 sentencing in CR-20-0044-PHX after a federal jury found him guilty of possessing child
8 pornography with a prior qualifying felony conviction. (PSR, ¶¶ 5 and 32.) Minutes before
9 the hearing, defense counsel for Mr. Lewis informed a Deputy U.S. Marshal that his client
10 had interrupted a judge during a prior hearing by yelling, using profanity, and calling the
11 judge names. *Id.* Defense counsel expressed concern Mr. Lewis would do so again during
12 the sentencing hearing. *Id.*

13 As Person A was pronouncing Mr. Lewis's sentence, the defendant interrupted the
14 hearing by yelling at the judge, repeatedly using racial slurs and offensive language, and
15 threatening to kill the judge and Person A's grandchildren. (PSR, ¶ 6-7.) The deputies in
16 the courtroom pinned the defendant's chair against the table to prevent him from physically
17 advancing toward Person A. (PSR, ¶ 6.) The courtroom deputies requested additional
18 assistance and court staff activated the distress alarm. (PSR, ¶ 7.) When additional officers
19 responded to the courtroom, the defendant was removed from the courtroom. As he was
20 being physically removed, the defendant yelled "monkey" and made monkey noises
21 directed at Person A. (PSR, ¶ 8.) The defendant's outburst lasted approximately 13
22 minutes.¹ (PSR, ¶ 7.) After his removal from the courtroom, Person A sentenced Mr.
23 Lewis to serve 151 months followed by lifetime supervision. (PSR, ¶¶ 8 and 32.)

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¹ The United States will submit an unredacted copy of the audio/video recording and transcript of the sentencing hearing in CR-20-0044-PHX to chambers for its consideration which has been previously disclosed to the defense at Production 1, Bates 33-111.

1 Due to work commitments, Person A will be unable to attend the sentencing hearing
2 on August 5, 2024, but provided a victim impact statement to undersigned counsel for
3 counsel to share with the Court. Person A stated that the events on July 25, 2022 have left
4 a mark on Person A and Person A's family and staff members. Person A increased security
5 measures for his children and grandchildren because it was unknown whether the defendant
6 could carry out the threats he shouted at Person A during the sentencing hearing. It was
7 particularly unnerving for Person A to have to explain the situation to family members and
8 young, impressionable grandchildren. Person A believes the defendant's threats were not
9 a mistake and they did not constitute aberrant behavior. Rather, the defendant's behavior
10 chills the rule of law and what judges do every day. Person A concurs with the stipulated
11 plea and the recommended sentence of 51 months in prison.

12 ARGUMENT

13 The defendant has amassed a notable criminal history riddled with possession of
14 child pornography, failures to register as a convicted sex offender, and inability to comply
15 with judicial orders. As Person A stated before the defendant shouted epithets, racial slurs,
16 and threats to kill, the defendant is a pedophile who poses a danger to the community
17 particularly young girls. The defendant is currently serving a sentence of 151 months in
18 prison and a sentence of 51 months consecutive to that sentences comports with all the 18
19 U.S.C. § 3553(a) factors the Court must consider when imposing an appropriate sentence.

20 As evidenced by the instant offense, the defendant continues to pose a danger to the
21 community. He is hostile, angry, and lacks respect for the law. The defendant's offense
22 conduct should not be tolerated. It is unacceptable for a defendant to come into Court and
23 denigrate, offend, and threaten members of the judiciary or their families. This Court must
24 impose a significant sentence that will hopefully deter the defendant, and others, from
25 committing such crimes in the future. The agreed upon sentence will provide just
26 punishment for the indelible mark the defendant left on Person A, as well as Person A's
27 family and staff members. A consecutive sentence of 51 months will hopefully promote
28 the defendant's future respect for the law, although only time will tell whether that occurs.

WHEREFORE, the United States respectfully moves the Court to accept the terms of the plea agreement and sentence the defendant to 51 months in prison. The United States, along with the USPO and the victim, also urge the Court to order that the sentence run consecutively to the sentence the defendant is currently serving.

Respectfully submitted this 30th day of July 2024.

GARY M. RESTAINO
United States Attorney
District of Arizona

s/Liza M. Granoff

LIZA M. GRANOFF
JOSH A.C. ACKERMAN
Assistant U.S. Attorneys

Copy of the foregoing served electronically or by other means this 30 day of July 2024, to:

Nathan Leonardo, Esq.